IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2634 of 2007

RAJA RAM
V/S
DEBT RELIEF COURT,SGNR. & ORS.

Mr. JS BHALERIA for the appellant / petitioner

Date of Order : 24.5.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner and perused the impugned order.

The learned trial court (Debt Relief Court) by the order dated 22.11.2005 had accepted the application filed under Section 6(2) of the Rajasthan Relief of Agricultural Indebtedness Act, 1957 and passed a decree for Rs.70,550/-. Against that a revision was filed by the present petitioner raising various grounds. However, the learned Revisional Court found that in the statement of claim, the present petitioner is described to be resident of village Dabla, Tehsil Raisinghnagar, while the application is filed at Karanpur alleging inter-alia that the petitioner had taken the advance at Padampur, and that he sells his agricultural produce etc., at Padampur, and purchases manure seeds etc. from Padampur, therefore, cause of action arose in Padampur

and Srikaranpur Court was having jurisdiction. In that view of the matter, it was considered by the Revisional Court that in view of the provisions of Section 6(2), the application can be filed at the place, where the debtor originally resides, or earns his livelihood, but no issue has been framed on that question, therefore, the debtor's rights could not be properly adjudicated.

In these circumstances, the learned Revisional Court by referring to provision of Section 6(2) has framed an additional issue as to whether the learned trial court had jurisdiction to entertain the application or not, and has set aside the decree of the learned trial court, and has remanded the matter back to the learned trial court, with a direction to record evidence of the parties on the newly framed issue, and decide the matter afresh.

In my view, when the decree of the learned trial Court has been set aside and the matter has been remanded, there is no sufficient reason to interfere with the remand order. Obviously the learned trial court will decide the matter on the newly framed issue, as to whether the learned trial court had jurisdiction to entertain the application or not. It need not be said that if the trial Court finds to be having jurisdiction, it will again decide all other issues afresh on merits, and if it is found that it has no jurisdiction, then obviously the claim application will be

dealt with accordingly.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

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